

VIA EXPRESS MAIL (Label No. EV374046277US) and  
FACSIMILE (703-872-9306)  
PATENT  
Docket No. 393032016800

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

**RECEIVED**

MAY 05 2004

In the application of:

Tsuyoshi FUTAMASE, et al.

Serial No.: 09/626,304

Filing Date: July 26, 2000

For: PORTABLE TELEPHONY  
APPARATUS WITH MUSIC TONE  
GENERATOR

Examiner: J. Donels

Group Art Unit: 2837

**OFFICE OF PETITIONS**

**ORIGINAL**

**SUPPLEMENTAL INFORMATION DISCLOSURE  
STATEMENT UNDER 37 C.F.R. § 1.97 & 1.98**

Mail Stop 313(c)  
Commissioner for Patents  
P.O. Box 1450  
Arlington, VA 22313-1450

Dear Sir:

Pursuant to 37 C.F.R. § 1.97 and § 1.98, Applicants submit for consideration in the above-identified application the documents listed on the attached Form PTO-1449. Copies of the documents are also submitted herewith. Also enclosed are copies of the Japanese and English translation of the Japanese office action from which these documents were cited. The Examiner is requested to make these documents of record and consider them before payment of the issue fee becomes due.

This Information Disclosure Statement is submitted with a Request for Continued Examination (RCE) and a petition to withdraw issue.

la-722817

Applicants would appreciate the Examiner initialing and returning the Form PTO-1449, indicating that the information has been considered and made of record herein.

The undersigned hereby certifies that each item contained in this Supplemental Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this statement.

The information contained in this Supplemental Information Disclosure Statement under 37 C.F.R. § 1.97 is not to be construed as a representation that: (i) a complete search has been made; (ii) additional information material to the examination of this application does not exist; (iii) the information, protocols, results and the like reported by third parties are accurate or enabling; or (iv) the above information constitutes prior art to the subject invention.

In the unlikely event that the transmittal letter is separated from this document and the Patent Office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Assistant Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing 393032016800. However, the Assistant Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Dated: May 5, 2004

Respectfully submitted,

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<b>Form PTO-1449</b>  <b>INFORMATION DISCLOSURE CITATION</b> <b>IN AN APPLICATION</b>  <i>(Use several sheets if necessary)</i>				Docket Number 393032016800		Application Number 09/626,304	
				Applicant  Tsuyoshi FUTAMASE, et al.			
				Filing Date July 26, 2000		Group Art Unit 2837	
				Mailing Date May 5, 2004		<div style="border: 1px solid black; padding: 5px; display: inline-block;"> <b>RECEIVED</b>   <b>MAY 05 2004</b> </div>	
<b>U.S. PATENT DOCUMENTS</b>							
<b>OFFICE OF PETITIONS</b>							
Examiner Initials	Ref. No.	Date	Document No.	Name	Class	Subclass	Filing Date If Appropriate
	1.	06/16/1998	5,768,127	Y. Murata			
	2.	03/07/2000	6,034,314	M. Koike			
<b>FOREIGN PATENT DOCUMENTS</b>							
Examiner Initials	Ref. No.	Date	Document No.	Country	Class	Subclass	Translation YES NO
	3.	04/06/1988	63-15777	Japan			Abstract
	4.	02/03/1992	4-3353	Japan			Abstract
	5.	06/16/1992	4-168493	Japan			Abstract
	6.	09/10/1993	5-232948	Japan			Abstract
	7.	05/15/1998	10-124046	Japan			Abstract
	8.	10/09/1998	10-271245	Japan			Abstract
<b>OTHER DOCUMENTS</b>							
<i>(including author, title, Date, Pertinent Pages, Etc.)</i>							
Examiner Initials	Ref. No.	Title					
EXAMINER:				DATE CONSIDERED:			
EXAMINER: Initial if citation considered, whether or not the citation conforms with MPEP 609. Draw a line through the citation if not in conformance and not considered. Include a copy of this form with next communication to applicant.							

Reference No. C28197

Mailing No. 107211

Mailing Date: March 30, 2004

NOTICE OF REASON FOR REJECTION

**RECEIVED**

**MAY 05 2004**

**OFFICE OF PETITIONS**

Patent Application No. 310750/1999

Drafting Date: March 18, 2004

Examiner of Patent Office: Hiroshi Masuko 9380 5C00

Attorneys for Patent Application: Keikou Okabe

Applied Prescription: Article 29, Paragraph 2 of the Patent  
Law

This application should be rejected for the following reason. If you have any opinions about the rejection, you may submit an Argument within 60 days from the mailing date of this Notice.

REASON

The inventions in the following claims of this application could be easily invented prior to the filing of this application on the basis of inventions described in the following publications distributed in Japan or foreign countries before the filing of this application by a person skilled in the art. Therefore, they shall not be patented under the prescription of Article 29, Paragraph 2 of the Patent Law.

## REMARKS

(Refer to a list of cited reference documents)

<<claims 1 through 3 and 8>>

Reference 1 discloses a portable telephone set constructed to download music data composed of MIDI data from a system server for utilizing the downloaded music data as a ringing melody tone or holding melody tone.

It is well known method for automatic performance apparatus to include setting information concerning the timbre and effect into performance data and to carry out the automatic performance according to the setting information. Thus, it is a matter of mere design for the person skilled in the art to adopt such automatic performance method in the portable telephone set disclosed in Reference 1.

Further, it is a matter of mere design for the person skilled in the art to provide a CPU for controlling the automatic performance means and tone generating means separately from another CPU for controlling other processing.

Moreover, it is well known to construct the portable telephone set for downloading voice information and image information from the system server and reproducing these information (Please refer to Reference 2 and others, for example).

<<claims 4 and 7>>

It is well known to convert the format of the automatic performance data according to the machine model of the automatic performance apparatus (Please refer to

Reference 3, for example)

<<claims 5 and 6>>

It is well known to construct the automatic performance apparatus to allocate setting information concerning the timbre and effect to the automatic performance data having no setting information for conducting the automatic performance (Please refer to Reference 4, particularly page 3, right column, lines 7-15, and References 5-7, for example). There is no difficulty to apply such a technique to the portable telephone set disclosed in Reference 1. In this case, it is a mere design choice for the person skilled in the art to allocate the setting information concerning the timbre and effect to the automatic performance information at the side of the system server before downloading, or to allocate the setting information at the side of the portable telephone set after downloading the automatic performance data.

#### LIST OF CITED REFERENCE DOCUMENTS

1. Japanese patent application laid-open No. 10-150505
2. Japanese patent application laid-open No. 10-271245
3. Japanese patent application laid-open No. 10-124046
4. Japanese patent application publication No. 63-15777
5. Japanese patent application laid-open No. 5-232948
6. Japanese Utility Model application publication No. 4-3353
7. Japanese patent application laid-open No. 4-168493

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Note of Prior Art Literature Inspection Results

- Field of Inspection: IPC 7th Edition, G10H1/00-1/00,102
- Prior Art Literature:

This Note of Prior Art Literature Inspection Results  
does not constitute any reason for rejection.

## 拒絶理由通知書

①

特許出願の番号	平成11年 特許願 第310750号
起案日	平成16年 3月18日
特許庁審査官	益戸 宏 9380 5C00
特許出願人代理人	岡部 恵行 様
適用条文	第29条第2項

この出願は、次の理由によって拒絶をすべきものである。これについて意見があれば、この通知書の発送の日から60日以内に意見書を提出して下さい。

## 理 由

この出願の下記の請求項に係る発明は、その出願前日本国内又は外国において頒布された下記の記事に記載された発明に基いて、その出願前にその発明の属する技術の分野における通常の知識を有する者が容易に発明をすることができたものであるから、特許法第29条第2項の規定により特許を受けることができない。

記 (引用文献等については引用文献等一覧参照)

## &lt;&lt;請求項1～3、8&gt;&gt;

引用文献1には、MIDIデータで構成された曲データをシステムサーバからダウンロードし、これを着信メロディや保留メロディとして利用するよう構成された携帯電話が記載されている。

自動演奏装置において、演奏データ中に音色や効果に関する設定情報を含ませておき、該設定情報に応じて自動演奏を行うよう構成することは常套手段であるから、引用文献1記載の携帯電話においてもそのように構成することは当業者が必要に応じて適宜なし得る単なる設計事項である。

また、引用文献1記載の携帯電話において、自動演奏手段及び楽音生成手段を制御するCPUを、それ以外の処理を制御するCPUとは別に設ける構成を採ることも、当業者が必要に応じて適宜なし得る単なる設計事項である。

さらに、携帯電話において、音声情報及び画像情報をシステムサーバからダウンロードし、これを再生するよう構成することも周知である(例えば引用文献2等参照)。

## &lt;&lt;請求項4、7&gt;&gt;

自動演奏装置の機種に応じて自動演奏データのフォーマットを変換することは周知である(例えば引用文献3等参照)。

## &lt;&lt;請求項5、6&gt;&gt;



自動演奏装置において、音色や効果に関する設定情報を有しない自動演奏データに対し、所定の音色や効果に関する設定情報を対応付けた上で自動演奏を行うよう構成することは周知であり(例えば引用文献4の特に第3頁右欄第7～15行、引用文献5～7等参照)、これを引用文献1記載の携帯電話に採用することに格別の困難は認められず、その際、所定の音色や効果に関する設定情報を自動演奏データに対し、ダウンロードする前にシステムサーバにおいて対応付ける構成とするか、ダウンロードした後に携帯電話において対応付ける構成とするかは、当業者が必要に応じて適宜行う単なる選択事項である。

#### 引用文献等一覧

1. 特開平10-150505号公報
2. 特開平10-271245号公報
3. 特開平10-124046号公報
4. 特公昭63-15777号公報
5. 特開平5-232948号公報
6. 実公平4-3353号公報
7. 特開平4-168493号公報

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#### 先行技術文献調査結果の記録

- ・調査した分野 IPC第7版 G10H1/00-1/00, 102
  - ・先行技術文献
- この先行技術文献調査結果の記録は、拒絶理由を構成するものではない。